

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>2/19/2025</u>

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SUSANNE CEREVKA,

Plaintiff,

-v-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
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23-cv-11261 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Plaintiff Susanne Ingrid Cerevka seeks judicial review of a final determination by Defendant Michelle King, Acting Commissioner (the “Commissioner”) of the Social Security Administration (the “SSA”), denying her application for benefits under the Social Security Act (the “Act”). Dkt. No. 9 at 2. Plaintiff seeks to vacate the Commissioner’s decision and remand for further administrative proceedings. *Id.*

In reviewing a Magistrate Judge’s Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties were given the opportunity to raise timely objections to the report and recommendation within fourteen days. *Id.* The Court reviews any portion of the report to which a party makes an objection de novo; in the absence of any objection, the Court reviews the report and recommendation only for clear error. Fed. R. Civ. P. 72(b) Advisory Committee Notes; *Colvin v. Berryhill*, 734 F. App’x 756, 758 (2d Cir. 2018).


No party has objected to Magistrate Judge Tarnofsky’s Report and Recommendation. The Court identifies no clear error. The Court accordingly adopts in its entirety the Report and Recommendation for the reasons stated by Judge Tarnofsky therein, and grants Plaintiff’s motion

to remand for reconsideration of the medical opinion evidence, incorporating appropriate appreciation of Dr. Ting's treating relationship with Plaintiff and careful consideration of whether and to what extent Plaintiff's ability to function in structured settings, such as during brief medical appointments, and in lower stress situations, such as performing daily life activities, is probative of her capacity to cope with the stress of sustained activities in a work environment; as well as for development of the record regarding Plaintiff's expected rates of off-task behavior and absences.

The Clerk of Court is respectfully directed to close the case.

SO ORDERED.

Dated: February 19, 2025
New York, New York



LEWIS J. LIMAN
United States District Judge